

REMARKS/ARGUMENTS

The Examiner reports a defective oath for failure to include the identification of "the city and either state or foreign country of residence of each inventor," and included submission of an application data sheet (ADS) among suggested means of correction of said defect. Therefore, the applicants include as an enclosure herewith an ADS providing the requested information with respect to each of the inventors.

Also, in a telephone conversation with the undersigned attorney for the applicants, the Examiner informed that correspondence mailed to the undersigned has been returned by the US postal service as the undersigned attorney was remiss in providing a change of address. Therefore, in addition to having provided a change of correspondence address to the US Patent and Trademark Office, a similar change of correspondence address form is also included as an enclosure herewith.

The Examiner has rejected claims 1-15 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as their invention by leaving in question what recited fibers are considered to be the claimed "laid and needled textile organic fibers." While the Examiner offered an interpretation of claim 1 for the purposes of prior art comparisons of the applicants' claimed invention which retains the term "organic fibers," in response to this rejection the applicants offer amended claim 1, which is believed to particularly point out and distinctly claim the subject matter of their invention which does not retain the potentially confusing term "organic fibers." It is respectfully submitted that amended claim 1 has thereby overcome the rejection under 35 USC 112, second paragraph.

Claims 1-2 and 4-7 stand rejected under 35 USC 102(b) as anticipated by US Patent No. 4,568,581 to Peoples, Jr. Without repeating the Examiner's description of the teaching of Peoples, Jr., applicants concede that the Examiner's description is a fair assessment of said prior art teaching. In particular, the Examiner equates Peoples, Jr.'s high melting polyester fibers to the applicants' claimed polyester fibers and Peoples, Jr.'s low melting polyethylene fibers to the

applicants' claimed polyester fibers. This "equating" is somewhat an over-simplification, as in actual practice the applicants employ more than one form of polyester—a high melting polyester (~30%) and a low melting polyester (~10%) with the balance being a high melting polyethylene (~60%). As the Examiner notes, in Peoples, Jr. "the low melting thermoplastic fibers [polyethylene] serve to bind the fibers together. Peoples, Jr. is interested in making a moldable fiber carpet. The provision of a minority of low melting polyethylene fibers along with a majority of more heat resistant polyester fibers permits melting of the polyethylene to hold the molded shape of the bed of combined fibers upon cooling. This is the goal/purpose of the disclosed fiber combination in Peoples, Jr. The applicants' disclosure, on the other hand, recognizes the prior art ability of forming moldable, needle-punched carpets of laid fibers. The applicants' taught goal, however, is to achieve previously unachievable (or previously untaught) increased wear resistance in such automotive carpets. This increased wear resistance is not a result of the moldability impact of the melted fibers allowing the unmelted fibers in such constructed carpets to retain a particular shape. The increased wear results from the unmelted fiber blend—that is, the combination or blend of unmelted polyester and unmelted polyethylene fibers. In the applicants' invention, the low melting fiber is a polyester fiber and not polyethylene as in Peoples, Jr.

Review of amended claim 1 shows inclusion not only of a binder fiber (resulting in cancellation of claim 2), it also now claims a yarn lubricant (resulting in cancellation of claim 3). It is respectfully submitted, therefore, that amended claims 1 and 2 are not anticipated by the disclosure of Peoples, Jr., as the relied on reference does not disclose use of a yarn lubricant, and the rejection under 35 USC 102(b) is overcome.

Claims 8-15 also stand rejected under 35 USC 102(b) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Peoples, Jr. The Examiner admits that Peoples, Jr. does not teach the claimed fabric losses, but relies on the doctrine of inherency, based on the similar materials in the respective prior art teaching and the applicants' claimed composite fabric. The Examiner goes on to note that the "burden is on Applicant(s) to prove otherwise."

Although the timing of this response falling during the Christmas-New Year holiday period precludes inclusion herein of such proof, it is in fact the applicants' are very willing to provide a supplemental response, if the Examiner deems it necessary or critical to allowance of the claims, to include a declaration by one or more of the inventor-applicants showing a comparison of wear testing results of the invention composite fabric with the fabric prepared according to the Peoples, Jr. disclosure, provided by Collins & Aikman Corporation, assignee of US 4,568,581.

It is respectfully submitted that such showing should not be needed as the inclusion in amended claim 1, upon which claims 8-15 are ultimately dependent, of a yarn lubricant should effectively overcome both the rejections under 35 USC 102(b) and 35 USC 103(a).

Finally, claim 3 stands as rejected under 35 USC 103(a) as obvious over Peoples, Jr. ('581) as previously applied to claim 2, and further in view of US Patent No. 3,719,546 to Parlin. Noting that "Peoples, Jr. is silent to the use of a yarn lubricant," the Examiner relies on the teaching of its use in Parlin. It is noted, however, in col. 1, lines 8-24 (as cited by the Examiner) that Parlin specifically teaches use of a yarn lubricant in the manufacture of "tufted" carpet. Moreover, at col. 1, lines 15-19, Parlin teaches the lubricant "permits the mobile fibers to be deflected more readily by tufting needles and as a result, there is little loss or change in the strength of the fabric when it is tufted." Again, at col. 2, lines 42-51, Parlin teaches "As explained, the lubricant permits the mobile fibers to be more readily deflected or pushed aside by the tufting needles without being broken or severed...and when the fibers are not damaged or broken by the tufting needles, the tensile strength in the width of the fabric can be maintained with acceptable limits." A word search through the text of Peoples, Jr., which speaks to the art described in applicants' disclosure, does not show the word "tufted" or the phrase "tufting needles" is use throughout the patented disclosure. It is respectfully submitted that the manufacturing process and product of Parlin is very distinct from that of Peoples, Jr. and of the applicants. Therefore, there is no suggestion from the combined teachings of Peoples, Jr. and Parlin to make obvious, under the standards of 35 USC 103(a), the use of a yarn lubricant by the applicants in the manufacture of their claimed composite fabric. Therefore, it is respectfully submitted that the rejection under 35 USC 103(a) is overcome.

Appl. No. 10/759,403
Amdt. Dated December 21, 2006
Amendment to Ofc Action of June 22, 2006

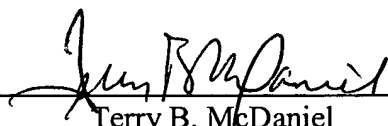
Express Mail No. ED556541014US
Case Docket No. D-F 101-45

In view of the amendments and arguments submitted in their support, applicants anticipate a timely Notice of Allowance to be issued in this case.

If the Examiner believes, for any reason, that personal communication will expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

The additional fee believed to be due (for extension of time for response) in connection with the filing of this amendment and response are included as a check in the amount of \$1,020.

Respectfully submitted,

By 
Terry B. McDaniel
Attorney for the Applicant
Registration No. 28,444

Attachments

Date: December 21, 2006
8309 Dye Makers Ridge
North Charleston, SC 29418
Telephone (843) 740-2311

Exhibit A

What is claimed is:

1. An integral textile fabric composite comprising a blend of laid and needled non-woven textile fibers wherein said fibers include a polypropylene textile fiber, a polyester textile fiber, a binder fiber and a yarn lubricant.
4. The composite fabric of claim 1 wherein the ratio of polyester to polypropylene is 60-80:40-20.
5. The composite fabric of claim 4 wherein the ratio of polyester to polypropylene is 70:30.
6. The composite fabric of claim 1 wherein the ratio of polyester to polypropylene to binder fiber is 75-55:20-35:5-10.
7. The composite fabric of claim 6 wherein the ratio of polyester to polypropylene to binder fiber is 65:28:7.
8. The composite fabric of claim 1 exhibiting a fabric loss less than 4.0 wt % after 1000 tabor cycles.
9. The composite fabric of claim 8 exhibiting a fabric loss less than 4.0 wt % after 1400 tabor cycles.
10. The composite fabric of claim 8 exhibiting a fabric loss less than 3.0 wt % after 1000 tabor cycles.

11. The composite fabric of claim 10 exhibiting a fabric loss less than 3.0 wt % after 1400 tabor cycles.

12. The composite fabric of claim 10 exhibiting a fabric loss less than 2.0 wt % after 1000 tabor cycles.

13. The composite fabric of claim 12 exhibiting a fabric loss less than 2.0 wt % after 1400 tabor cycles.

14. The composite fabric of claim 13 exhibiting a fabric loss less than 2.0 wt % after 2000 tabor cycles.

15. The composite fabric of claim 14 exhibiting a fabric loss less than 2.0 wt % after 2500 tabor cycles.